

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 56 – SB 119

March 21, 2017

SUMMARY OF ORIGINAL BILL: Expands the offense of theft of merchandise to include: tampering with anti-shoplifting devices; using any artifice, instrument, container, device or other article to facilitate a theft; and activating or interfering with a fire alarm system to facilitate a theft.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (005223): Deletes and rewrites the amendatory language of section 2 to set the fine as not less than \$300 nor more than the maximum fine established for the appropriate offense classification.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Tennessee Code Annotated § 39-14-146 prohibits the theft of property if a person, with intent to deprive a merchant of the stated price of merchandise, knowingly:
 - Conceals the merchandise;
 - Removes, takes possession of, or causes the removal of merchandise;
 - Alters, transfers or removes any price marking, or any other marking which aids in determining value affixed to the merchandise;
 - Transfers the merchandise from one container to another; or
 - Causes the cash register or other sales recording device to reflect less than the merchant's stated price for the merchandise.
- Theft of merchandise is graded the same as theft.
- The proposed legislation would add three new acts that constitute theft of merchandise:
 - Removing, destroying, deactivating, or evading any component of anti-shoplifting or inventory control device to commit or facilitate a theft;
 - Using any artifice, instrument, container, device, or other article to commit or facilitate a theft; and
 - Activating or interfering with a fire alarm system to commit or facilitate a theft.

HB 56 – SB 119

- The proposed legislation also adds a section to Tenn. Code Ann. § 39-14-146 providing that a fifth or subsequent conviction in a two- year period will be punished at a higher classification than is provided by Tenn. Code Ann. § 39-14-105 (grading of theft).
- Except for activating a fire alarm system, the new offenses are covered not only by the current provisions of Tenn. Code Ann. § 39-14-146, but also various other provisions of title 39, chapter 14, part 1. Further, activating a fire alarm system for the purpose of committing or facilitating a theft is punishable the same as theft of merchandise under Tenn. Code Ann. § 39-11-402—criminal responsibility for conduct of another.
- Statistics from the Department of Correction show no admissions under Tenn. Code Ann. § 39-14-146 over the last ten years. It is assumed that the additional conduct added by the proposed legislation will not result in any additional admissions, and, therefore, will not significantly impact state incarceration costs.
- Further, it is assumed that the lack of admissions will not likely result in a person receiving a fifth or subsequent conviction within a two-year period.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

/trm